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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,688	06/07/2001	Terry K. Harper	10872-1010	8203

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EXAMINER

MORRISON, NASCHICA SANDERS

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 05/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/876,688

Applicant(s)

HARPER, TERRY K.

Examiner

Naschica S Morrison

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/7/01 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This is the first Office Action for serial number 09/876,688, Removable Wire Caddy for Electrician's Ladder, filed on June 7, 2001. Claims 1-23 are pending.

#### ***Drawings***

The drawings are objected to because: in Figure 1, one occurrence of numeral "22" should be --21-- according to page 7, line 17-18. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "24" and "17" have both been used to designate "base leg" in Figure 1. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

#### ***Claim Objections***

Claim 8 is objected to because of the following informalities: on line 3, "the" should be --a--. Appropriate correction is required.

Claim 13 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim, or amend the claim to place the claim in proper dependent

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form, or rewrite the claim in independent form. Claim 13 only recites structure and does not further limit the method steps of claim 9.

Claim 14 is objected to because of the following informalities: on line 5, "leg" should be --legs--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

Claims 1-8, 13, 20, and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding Claim 1, lines 6 and 8 have ambiguous claim terminology where it is unclear whether latter recitations of originally cited terminology are intended to refer to the originally cited terms. It is unclear if "a ladder" in claim 1, lines 6 and 8 is intended to refer to "a ladder" in claim 1, line 1. See also claim 2 (line 8), claims 7 and 8 (line 3), and claim 8 (line 3).

Regarding claim 5, line 1 insert --said-- before "step engaging means" to provide proper antecedent basis for this limitation in the claim.

Claim 20 recites the limitation "said spooled wire" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 22 recites the limitation "the side rails" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 23, line 1 recites "the positioning of said recesses...". It is unclear if the applicant intends to claim structure or a method step. Appropriate correction/clarification is required.

### **Claim Rejections – 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,7,9, and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,858,849 to Peirce, Jr. (Peirce). With regards to claims 1, 2 (as best understood), 7, 12, 13 (as best understood), and 14, Peirce discloses a rigid wire caddy comprising: a step engaging means comprising a bar (19); a side rail engaging means comprising a rectilinear bar (21,22,23) having opposed ends; and a U-shaped frame (at 12 generally) extending from the step engaging means (19) for rotatably supporting wire spools (16,17), the frame comprising parallel spaced side legs (11,12) having fastening means (14,15) with openings and extending from ends portions of a base leg (at 10 generally) that is joined to the step engaging means (19), and a rectilinear, horizontally oriented spool support rod (13) having opposed ends releasably mounted within the openings of the fastening means (14,15) of the U-shaped frame side legs; wherein the step engaging means (19), side rail engaging means (21,22,23), and U-shaped frame (at 12 generally) occupy a common plane; wherein the step engaging means (19), side rail engaging means (21,22,23), and U-shaped frame (at 12 generally) define oppositely facing c-shaped recesses (between 11 and 22, between 12 and 23).

Regarding claims 9,13, and 14, the method steps recited therein are inherent to the apparatus as applied above.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-6,8, and 15-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peirce. Regarding claim 3, Peirce discloses the wire caddy as applied above but does not disclose the caddy being one-piece construction. However, it would have been obvious to one of ordinary skill in the art to have modified the caddy to be formed as one-piece since it has been held that forming an article as a one-piece construction, in place of separate elements fastened together, is a design consideration within the skill of the art. In re Kohno, 391 F.2d 959, 157 USPQ 275 (CCPA 1968); In re Larson, 340 F.2d 965, 144 USPQ 347 (CCPA 1965). Regarding claims 4-8,15-22, and 23 (as best understood), Peirce discloses the wire caddy as applied above, but does not disclose the step engaging means including two bars (19) extending to the U-shaped frame (at 12 generally). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the step engaging means by including an additional bar (such as 19) spaced from bar (19) since it has been held that

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mere duplication of the essential working parts of a device involves only routine skill in the art.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,533,091 to Knight et al. (Knight) in view of Peirce. Regarding claims 10 and 11, Knight teaches positioning a wire caddy (13,14 generally) on a ladder (11) and horizontally orienting a spool support rod (13) having wire spools thereon. Knight does not teach suspending the spool support rod between distal ends of parallel legs or configuring a support bar, pair of spacer bars, and base leg to form oppositely facing c-shaped recesses for registering about a side rail of the ladder. Peirce teaches the wire caddy and method steps for supporting wire spools as applied to claims 1-8 and 12-14 above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the assembly of Knight by providing the wire caddy of Peirce because one would have been motivated to provide a removable caddy that is easily installed as inherently taught by Peirce.

### **CONCLUSION**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

266009 to Barrett; 447153 to Holmes; 591178 to Peck; 848460 to Green;

1006702 to Talmon; 1509717 to Davis; 3279720 to Garrett; 4143832 to Platt;

4909350 to Jacobs; 5330120 to Tussing; 5641142 to Hanson et al;

6199786 to Lessard et al; 6367754 to Cinker





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The above references disclose wire spool holders relevant to Applicant's invention.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703) 305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine telephone number for the Technology Center is (703) 305-3598 (formal amendments) or (703) 308-3686 (informal amendment/communication).

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 308-2168.

  
Naschica S. Morrison  
Patent Examiner  
Art Unit 3632  
5/10/02

  
LESLIE A. BRAUN  
SUPERVISORY PATENT EXAMINER